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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/957,035	09/21/2001	Hirokatsu Shimada	009683-385	4247
7590	03/23/2005			EXAMINER CARTER, TIA A
Platon N. Mandros BURNS, DOANE, SWECKER & MATHIS, L.L.P. P.O. Box 1404 Alexandria, VA 22313-1404			ART UNIT 2626	PAPER NUMBER
DATE MAILED: 03/23/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/957,035	SHIMADA, HIROKATSU	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tia A Carter	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2,4-7,9-11 and 13 is/are rejected.
- 7) Claim(s) 3,8, and 12 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 4-6, 9-10 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumada (US. 6829058).

Regarding claim 1, Kumada disclose an image processing apparatus (fig. 3, col. 4, lines 37-40), comprising:

a storage device (32) to store at least two color information files having contents different from each other (fig. 3, col. 4, lines 52-58);  
selecting means (network 1) for selecting one of said at least two color information files according to brightness of image data (fig. 6, col. 5, lines 26-35; figs. 7-9, col. 6, lines 24-49); and

sending means (server 3) for externally sending said selected color information file by attaching said file to said image data (figs. 7-9, col. 6, lines 44-53).

Regarding claim 4, Kumada disclose the image processing apparatus according to claim. 1, further comprising color information creating means for creating said at least two color information files (fig. 24, col. 12, lines 26-39).

Regarding claim 5, Kumada disclose the image processing apparatus according to claim 1, further comprising reading means for reading an original to generate said image data (fig. 27, col. 13, lines 8-11).

Regarding claim 6, Kumada disclose an image processing program (col. 19, lines 1-43) to cause a computer to execute processing comprising the steps of:

selecting one of at least two color information files having contents different from each other, according to brightness of image data (fig. 6, col. 5, lines 26-35; figs. 7-9, col. 6, lines 24-49); and

externally sending said selected color information file by attaching said file to said image data (figs. 7-9, col. 6, lines 44-53).

Regarding claim 9, Kumada disclose the image processing program according to claim 6, wherein said processing further comprises the step of creating said at least two color information files for storage in a storage device (fig. 24, col. 12, lines 26-39).

Regarding claim 10, Kumada disclose an image processing method (fig. 3, col. 4, lines 37-40), comprising the steps of:

selecting one of at least two color information files having contents different from each other, according to brightness of image data (fig. 6, col. 5, lines 26-35; figs. 7-9, col. 6, lines 24-49);; and

externally sending said selected color information file by attaching said file to said image data (figs. 7-9, col. 6, lines 44-53).

Regarding claim 13, Kumada disclose the image processing method according to claim 10, further comprising the step of creating said at least two color information files for storage in a storage device (32) (fig. 24, col. 12, lines 26-39).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2, 7, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumada (US. 6829058) in view of Shu (US. 5517335)

Regarding claim 2, Kumada discloses the image processing apparatus according to claim 1.

Kumada do not disclose wherein said selecting means determines the brightness of said image data based on a number of bright pixels having luminance brighter than a prescribed luminance value and a number of dark pixels having luminance darker than said prescribed luminance value.

Shu disclose wherein said selecting means determines the brightness of said image data based on a number of bright pixels having luminance brighter than a prescribed luminance value and a number of dark pixels having luminance darker than said prescribed luminance value (Figs. 4a-c, col. 6, lines 1-37).

It would have been obvious to one skilled in the art at the time of the invention to modify Kumada wherein the pixel hue and saturation value are determined for providing a user with the closest color reproduction possible avoiding image data artifacts.

Regarding claim 7, Kumada discloses the image processing program according to claim 6.

Kumada do not disclose wherein said selecting means determines the brightness of said image data based on a number of bright pixels having luminance brighter than a prescribed luminance value and a number of dark pixels having luminance darker than said prescribed luminance value.

Shu disclose wherein said selecting means determines the brightness of said image data based on a number of bright pixels having luminance brighter than a prescribed luminance value and a number of dark pixels having luminance darker than said prescribed luminance value (Figs. 4a-c, col. 6, lines 1-37).

It would have been obvious to one skilled in the art at the time of the invention to modify Kumada wherein the pixel hue and saturation value are determined for providing a user with the closest color reproduction possible avoiding image data artifacts.

Regarding claim 11, Kumada discloses the image processing method according to claim 10.

Kumada do not disclose wherein said selecting means determines the brightness of said image data based on a number of bright pixels having luminance brighter than a prescribed luminance value and a number of dark pixels having luminance darker than said prescribed luminance value.

Shu disclose wherein said selecting means determines the brightness of said image data based on a number of bright pixels having luminance brighter than a prescribed luminance value and a number of dark pixels having luminance darker than said prescribed luminance value (Figs. 4a-c, col. 6, lines 1-37).

It would have been obvious to one skilled in the art at the time of the invention to modify Kumada wherein the pixel hue and saturation value are determined for providing a user with the closest color reproduction possible avoiding image data artifacts.

***Allowable Subject Matter***

12 KAW

1. Claims 3, 8 and ~~11~~ are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Newman (US. 6603483), Kumada et al. (US. 6643029), and Takaoka (US. 6693718) are cited to show related art with respect to device color profiles via a processing network.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tia A Carter whose telephone number is 703 - 306-5433. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kimberly A Williams can be reached on 703-305-4863. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

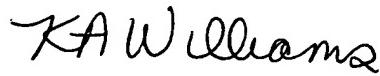
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tia A Carter  
Examiner  
Art Unit 2626



TAC  
3/7/2005



KIMBERLY WILLIAMS  
SUPERVISORY PATENT EXAMINER